

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SANJAY TRIPATHY,	:
Plaintiff,	:
v.	:
	:
MARIA FEUZ; JACQUELINE REID; LUIS	:
GONZALEZ; JOHN WOOD; EDWARD	:
BURNETT; JEFF MCKOY; TINA M.	:
STANFORD; MICHELLE HARRINGTON;	:
KATHY HOCHUL; RYAN BROTH; BRIAN	:
MCCALLISTER; and ANTHONY ANNucci,	:
Defendants.	:

USDC 21-5349-VB
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CLERK'S OFFICE, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
11-4-22

OPINION AND ORDER

21 CV 5349 (VB)

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Chambers of Vincent L. Briccetti

11-4-22

DH

In a submission entitled “Permissive Interlocutory Appeals—28 USCA §1292(b),” dated October 31, 2022 (Doc. #66), plaintiff, who is proceeding pro se, seeks a ruling from this Court that an interlocutory appeal should be permitted with respect to the Court’s prior determination, in its Opinion and Order dated October 24, 2022, that RLUIPA prohibits the recovery of money damages from state officers sued in their individual capacities. (See Opinion and Order, Doc. #64, at p. 10, n. 4).

Plaintiff’s request is DENIED as plainly without merit. In making its prior determination, the Court relied on a binding decision of the Second Circuit, namely Tanvir v. Tanzin, 894 F.3d 449, 465 (2d Cir. 2018), aff’d, 141 S. Ct. 486 (2020). Accordingly, this Court is not “of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion.” 28 U.S.C. § 1292(b).

In any event, the Court’s October 24 Opinion and Order is not an appealable order because it is not a final decision in this case. Although the Court did dismiss certain claims against certain defendants, it did not dismiss all claims against all defendants, and it transferred the remaining claims against the remaining defendants to the U.S. District Court for the Western

District of New York. Accordingly, the Clerk's Judgment entered on October 26, 2022 (Doc. #65), does not constitute a final judgment.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. See Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

Dated: October 24, 2022
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge